

REMARKS

These remarks are in response to the Decision on Appeal dated June 29, 2011 and the Notice of Abandonment dated September 8, 2011. A Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b) and a Request for Continued Examination are submitted herewith.

Claims

Claims 1-3 and 5-36 were before the Board in the above-identified application. The Board affirmed the rejection of Claims 1-3 and 5-36 over the cited reference. Claims 1-3, 5, 8, 10, 12-16, 18, 20, 22, and 24-36 are amended, and Claim 4 was previously canceled. Claims 6-7, 9, 11, 12, 17, 19, 21, and 23 remain as filed or as previously presented. Reconsideration is requested.

Rejections Under 35 U.S.C. § 102

The Board affirmed the rejection of Claims 1-3 and 5-36 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,708,422 (Blonder et al.).

In the Decision on Appeal, the Board made the following factual findings (some findings omitted):

...

FF2. Blonder at Col. 7:4-12 discloses that Fig. 3 shows no-answer-credit threshold 309 [and] no answer-transaction field 310. Those fields identify the maximum amount and number of transactions that can be approved when the card owner cannot be reached by the system.

FF3. Blonder at Col. 7:20-31 discloses that the system determines if the card-owner pre-imposed condition has been breached. If so, the system formats an authorization request to the card owner.

FF4. Blonder in Fig. 3 shows credit card numbers with trigger conditions, a communication address, and no answer credit and transaction thresholds.

...

In the analysis section of the Decision, the Board opined (in part):

...
We agree with the Examiner. Blonder discloses that some transactions occur without account holder verification when an account condition is satisfied (FF2) and also that account holder verification is required in some instances upon failure of a condition (FF3, FF4). For these reasons the rejection of claims 1 and 13, and dependent claims 2-3, 5-6, 9-12, 14-18, 21-30, and 33-36, which have not been separately argued is sustained.
...

The standard for anticipation is set forth in M.P.E.P. § 2131 as follows:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The claims are amended herein, based on the analysis of the Board’s decision, to clearly distinguish the invention over the interpretation of the cited reference.

Claims 1-3 and 5-12:

Claim 1 is amended herein to recite the following (in part):

1. A computer system for verifying a commercial transaction between a user with account information and a merchant, said computer system comprising:
...
memory for storing said data and said code, said data and said code comprising
...
a pre-verification condition associated with said account-holder, said pre-verification condition defining a pre-verified circumstance when account-holder verification of said transaction approval request is not needed if said transaction approval request satisfies said pre-verification condition, **said account-holder verification including contacting said account-holder**,
an authorization module responsive to said transaction approval request and operative

to compare said transaction approval request with said pre-verification condition **before contacting** said account-holder to perform account-holder verification of said transaction approval request, to verify said transaction approval request **without attempting to contact** said account-holder to perform account-holder verification if said pre-verification condition **is satisfied**, to verify said transaction approval request with said account-holder **by contacting** said account-holder if said pre-verification condition **is not satisfied** ... (emphasis added)

Blonder et al. provides the following regarding the no-answer credit threshold field 309 and the no-answer transaction field 310, which are shown in FIG. 3:

Also included in the profile of FIG. 3 is no-answer-credit threshold field 309 and no-answer-transaction threshold field 310. Those fields identify respectively, the maximum amount of credit that can be approved, and the maximum number of permissible transactions within a given period of time, **when the card owner cannot be reached** by the communications system of FIG. 1. When the card owner does not wish any transactions to be authorized **when he or she cannot be reached**, then those fields are set to zero. (*Blonder et al.*, Col. 7, Lines 4-12).

Thus, the system of Blonder et al. utilizes the threshold fields 309 and 310 to approve transactions when the card owner cannot be reached. The system can only determine if the card owner “cannot be reached” if it had previously attempted contact with the card owner.

Because utilizing the fields 309 and 310 require a prior attempt to contact the card owner, the above-referenced passage of Blonder (i.e., FF2 of the Board) cannot teach an authorization module operative to “compare said transaction approval request with said pre-verification condition **before contacting** said account-holder to perform account-holder verification” and to “verify said transaction approval request **without attempting to contact** said account-holder to perform account-holder verification if said pre-verification condition **is satisfied**” as recited by amended Claim 1 (emphasis added).

Regarding FF3 and FF4, Blonder et al. provides the following at Col. 7, Lines 20-31:

Referring back to FIG. 1, when a transaction request message, such as the one illustrated in FIG. 2, is received by validation database 106, the latter uses a) the information included in that message, and b) the retrieved profile associated with the card number in that message to determine whether at least one card owner pre-imposed condition **has been breached** (or a card owner pre-defined threshold **has been exceeded**). If so, validation database 106 fetches the communications address of the credit card owner and any other appropriate information to format an authorization request and/or alert message **that is transmitted to the card owner**. ... (Emphasis added).

The above passage refers to the trigger fields 305-307 depicted in FIG. 3 (see also, col. 6, lines 10-13). As described, if the condition of the trigger field is met/satisfied, then an authorization request and/or an alert message must be transmitted to the card owner.

In view of the above passage, if the trigger fields 305-307 are interpreted as an equivalent to Applicant's claimed "pre-verification condition," then Blonder et al. cannot disclose an authorization module operative to "verify said transaction approval request **without attempting to contact said account-holder** to perform account-holder verification if said pre-verification condition **is satisfied**" as recited by amended Claim 1 (emphasis added). This is because satisfying one of Blonder's trigger fields 305-307 ensures that the system will attempt to contact the card owner with an authorization request. The Board's Decision appears to agree with this characterization of Blonder et al. because they do not cite FF3 or FF4 as evidence that Blonder discloses the above-recited element of amended Claim 1.

For the above reasons, because Blonder et al. does not disclose all the limitations of amended Claim 1, Claim 1 distinguishes over Blonder et al. Claims 2-3 and 4-12 depend, either directly or indirectly, from Claim 1 and are, therefore, distinguished from the cited reference for at least the same reasons as Claim 1.

Claims 13-24

Claim 13 is amended herein to recite that “said account-holder verification include[es] **contacting** said account-holder” and the steps of “comparing said transaction approval request to said pre-verification condition **before attempting to contact** said account-holder to perform account-holder verification of said transaction approval request” and “verifying said transaction approval request **without attempting to contact said account-holder** to perform account-holder verification if said pre-verification condition **is met**” (emphasis added). Therefore, Claim 13 now distinguishes over the cited reference for at least the same reasons as amended Claim 1. Claims 14-24 depend, either directly or indirectly, from amended Claim 13 and are, therefore, distinguished from the cited reference for at least the same reasons as amended Claim 13.

Claims 25-36:

Claims 25-36 are amended to include limitations similar to Claims 13-24, from which they originally depended. Accordingly, Claim 25 is recast in independent form, and Claims 26-36 are amended to depend, either directly or indirectly, from Claim 25.

Claim 25 is amended herein to recite that “said account-holder verification include[es] **contacting** said account-holder” as well as “comparing said transaction approval request to said pre-verification condition **before attempting to contact** said account-holder to perform account-holder verification of said transaction approval request” and “verifying said transaction approval request **without attempting to contact said account-holder** to perform account-holder verification if said pre-verification condition **is met**” (emphasis added). Therefore, Claim 25 now distinguishes from the cited reference for at least the same reasons as amended Claim 1. Claims 26-36 depend, either directly or indirectly, from amended Claim 25 and are, therefore, distinguished from the cited reference for at least the same reasons as amended Claim 25.

For the above reasons, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 102.

For the foregoing reasons, Applicant believes that Claims 1-3 and 4-36 are in condition for allowance. Should the Examiner undertake any action other than allowance of Claims 1-3 and 4-36, or if the Examiner has any questions or suggestions for expediting the prosecution of this application, the Examiner is requested to contact Applicant's attorney at (269) 279-8820.

Respectfully submitted,

October 6, 2011

/Larry E. Henneman, Jr./

Date: _____

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CERTIFICATE OF TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being electronically filed with the U.S. Patent and Trademark Office or is being transmitted via facsimile to MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at (571) 273-8300, on the date shown below.

October 6, 2011

/Larry E. Henneman, Jr./

Date: _____

Larry E. Henneman, Jr.